



OFFICE OF CHIEF COUNSEL FOR ADVOCACY

U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

EX PARTE OR LATE FILED

January 12, 1998

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

By Hand Delivery

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, NW Suite 222
Washington, DC 20554

RE: Notice of Ex parte Presentations in a Non-Restricted Proceeding
In re Toll Free Access Service Codes, CC Dkt. No. 95-155; Payphone Compensation,
CC Dkt. 96-128; Access Charge Reform, CC Dkt. No. 96-262; and Universal Service
CC Dkt. No. 96-45.

Dear Ms. Salas:

The Office of Advocacy, U.S. Small Business Administration (SBA), by its undersigned representative and in accordance with Section 1.1206 of the Federal Communications Commission's ("FCC" or "Commission") rules, hereby respectfully submits an original and one copy of this ex parte presentation notification. To the extent that a waiver is necessary for the filing requirement on the day of the ex parte presentation, we respectfully request the Commission's approval of this late filing.

On January 8, 1998, Jere W. Glover, Chief Counsel for Advocacy, and S. Jenell Trigg, Assistant Chief Counsel for Telecommunications, met with the following persons:

Commissioner Michael Powell
Jane Mago, Senior Legal Advisor to Commissioner Powell
Commissioner Gloria Tristani
Karen Gulick, Legal Advisor to Commissioner Tristani
Commissioner Harold Furchtgott-Roth
Kevin Martin, Legal Advisor to Commissioner Furchtgott-Roth

The Office of Advocacy's discussions on issues regarding the above-referenced proceedings are consistent with our comments filed in each docket, except for discussions regarding the Payphone Compensation proceeding, CC Dkt. No. 96-128.¹ Advocacy has not yet filed formal comments in this proceeding, however we are currently reviewing the Commission's previous orders given many telephone calls and letters received by Advocacy from small business toll free subscribers concerned about the significant increases in toll free rates.

Advocacy recognizes that there are many complex issues in the Commission's implementation of Section 276 of the Telecommunications Act of 1996 ("1996 Act"). Moreover, there are countervailing interests between distinct classes of small businesses in this proceeding. On one hand, payphone providers, including independent operators, deserve to have reasonable compensation for all calls made from their payphone equipment, consistent with the congressional intent of the 1996 Act. There are also toll free carriers, including small carriers, that cannot absorb the cost of the new \$.284 per call fee to

¹ Please note that Advocacy did not discuss all issues with every Commissioner. Specifically, the Payphone Compensation proceeding was discussed briefly with Commissioners Tristani and Furchtgott-Roth.

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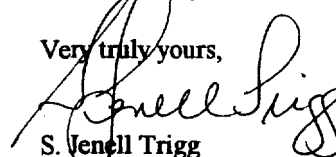
payphone providers. *In re* Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, *Second Report and Order*, CC Dkt. No. 96-128, FCC 97-371, (rel. Oct. 9, 1997). However, on the other hand, many small business subscribers are facing significant increases in toll free rates to the severe detriment of their customers and their businesses because the toll free carriers have passed this fee through to the toll free subscriber.²

While it was expected that such charges could be passed on by the carrier, it appears that it was not expected that small businesses would incur cost increases in the tens of thousands of dollars per year.³ To many subscribers, these costs are retroactive and have been imposed without notice. Consequently, the significant economic impact of these rate increases on entire classes of small businesses who rely on toll free calls made from payphones is an unintended consequence of both the 1996 Act and the FCC's decision.

Advocacy is working to identify all material issues raised by small entities; i.e., payphone operators, toll free carriers, and small business subscribers. We hope to assist the FCC in finding a resolution that will help reduce the economic harm to all parties involved while meeting the statutory mandate of the 1996 Act. Advocacy also encourages the Commission to better explore the payphone compensation issues through outreach to all classes of small entities. The Office of Advocacy can assist in this outreach effort if the Commission so desires.

Thank you for your assistance in this matter. Please call with any questions.

Very truly yours,



S. Jenell Trigg
Assistant Chief Counsel for
Telecommunications
Office of Advocacy
U.S. Small Business Administration
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(202) 205-6950

cc: The Honorable William E. Kennard
The Honorable Michael Powell
The Honorable Gloria Tristani
The Honorable Harold Furchtgott-Roth
The Honorable Susan Ness
Jane Mago, Kevin Martin, Karen Gulick, and Catherine J.K. Sandoval

² Advocacy is aware that the *Second Report and Order* only set the actual rate to be charged and the issue of who pays was established in a previous order. *In re* Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, *Report and Order*, 11 FCC Rcd 20,541, para. 83 (1996).

³ See e.g., Fax from Coley O'Brien & Associates, representing Allen Lund Company, Inc. to S. Jenell Trigg, U.S. Small Business Administration, December 17, 1997 (the new toll free charges could "cost [the] company up to \$170,000 a year") (emphasis added); Letter from John W. Graham, President, Management Information Technology Corporation, to William F. Caton, Secretary, Federal Communications Commission, Oct. 31, 1997 ("one of my customers is facing a \$50,000 per year increase in their 800# phone bill") (emphasis in original).